

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	CONSENT PRELIMINARY ORDER
- v. -	:	OF FORFEITURE/
	:	<u>MONEY JUDGMENT</u>
DAVID WAGNER,	:	
	:	19 Cr. 437 (AKH)
Defendant.	:	
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WHEREAS, on or about June 12, 2019, DAVID WAGNER (the “Defendant”), and co-defendant Marc Lawrence, was charged in a five-count Indictment, 19 Cr. 437 (AKH) (the “Indictment”), with conspiracy to commit securities fraud, in violation of Title 18, United States Code, Section 371 (Count One); securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, Title 17, Code of Federal Regulations, Section 240.10b-5, and Title 18, United States Code, Section 2 (Counts Two and Three); conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349 (Count Four); and wire fraud, in violation of Title 18, United States Code, Sections 1343 and 2 (Count Five);

WHEREAS, the Indictment included a forfeiture allegation as to Counts One through Five, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), of any and all property, real and personal, which constitutes or is derived from proceeds traceable to the commission of the offenses charged in Counts One through Five, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offenses charged in Counts One through Five that the Defendant personally obtained;

WHEREAS, on or about September 21, 2020, the Defendant pled guilty to Counts Two, Three and Five of the Indictment, pursuant to a plea agreement with the Government,

wherein the Defendant admitted the forfeiture allegation with respect to Counts Two, Three and Five of the Indictment and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28 United States Code, Section 2461(c) a sum of money equal to \$549,000 in United States currency, representing any and all property, real or personal, which constitutes or is derived from proceeds traceable to the commission of the offenses charged in Counts Two, Three and Five of the Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offenses that the Defendant personally obtained;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$549,000 in United States currency representing the amount of proceeds traceable to the offenses charged in Counts Two, Three and Five of the Indictment that the Defendant personally obtained; and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offenses charged in Counts Two, Three and Five of the Indictment that the Defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Audrey Strauss, Acting United States Attorney, Assistant United States Attorneys, Jilan Kamal and Sagar Ravi, of counsel, and the Defendant, DAVID WAGNER and his counsel, Martin Cohen, Esq., that:

1. As a result of the offenses charged in Counts Two, Three and Five of the Indictment, to which the Defendant pled guilty, a money judgment in the amount of \$549,000 in United States currency (the “Money Judgment”), representing the amount of proceeds traceable to

the offenses charged in Counts Two, Three and Five of the Indictment that the Defendant personally obtained, shall be entered against the Defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, DAVID WAGNER, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.


8. The Clerk of the Court shall forward three certified copies of this Consent Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Co-Chief of the Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

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9. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

AUDREY STRAUSS  
Acting United States Attorney for the  
Southern District of New York

By:   
\_\_\_\_\_  
Jilan Kamal  
Sagar Ravi  
Assistant United States Attorneys  
One St. Andrew's Plaza  
New York, NY 10007  
(212) 637-2192 / 2195

January 11, 2020

DATE

DAVID WAGNER

By: /s/ David Wagner by Martin Cohen  
David Wagner

Jan. 8, 2021

DATE

By: /s/ Martin Cohen  
Martin Cohen, Esq.  
Attorney for Defendant  
52 Duane Street, 10<sup>th</sup> Floor  
New York, NY 10007  
(212) 417-8737

Jan. 8, 2021

DATE

SO ORDERED:

/s/ Hon. Alvin K. Hellerstein  
HONORABLE ALVIN K. HELLERSTEIN  
UNITED STATES DISTRICT JUDGE

Jan. 12, 2021

DATE